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असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills have been introduced in the Rajya Sabha on the 30th July, 2021:—

I

BILL NO. XXXI OF 2021

A Bill to amend the Limited Liability Partnership Act, 2008.

BE it enacted by Parliament in the Seventy-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Limited Liability Partnership (Amendment) Act, 2021.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

6 of 2009.
1 of 1956.
18 of 2013.

2. Throughout the Limited Liability Partnership Act, 2008 (hereinafter referred to as the principal Act), for the words and figures “the Companies Act, 1956” wherever they occur, the words and figures “the Companies Act, 2013” shall be substituted.

Substitution of
reference of
certain expressions
by certain other
expressions.

Amendment
of section 2.

3. In section 2 of the principal Act, in sub-section (I),—

(a) in clause (c), for the words, brackets, figures and letters “sub-section (I) of section 10FR”, the word and figures “section 410” shall be substituted;

(b) in clause (d), for the word and figure “section 3”, occurring at both the places, the words, brackets and figures “clause (20) of section 2” shall be substituted;

(c) in clause (e), for the words “and occupation”, the words “and occupation except any activity which the Central Government may, by notification, exclude” shall be substituted;

(d) after clause (i), the following clause shall be inserted, namely:—

‘(ia) “debenture” means a non-convertible debenture issued by a limited liability partnership evidencing a debt and constituting a charge on the assets of such limited liability partnership;’;

(e) after clause (r), the following clause shall be inserted, namely:—

‘(ra) “Regional Director” means a person appointed as such by the Central Government for the purposes of this Act or the Companies Act, 2013, as the case may be;’;

18 of 2013.

(f) for clause (s), the following clause shall be substituted, namely:—

‘(s) “Registrar” means a person appointed by the Central Government as Registrar, an Additional Registrar, a Joint Registrar, a Deputy Registrar or an Assistant Registrar, for the purposes of this Act or the Companies Act, 2013, as the case may be;’;

18 of 2013.

(g) after clause (t), the following clause shall be inserted, namely:—

‘(ta) “small limited liability partnership” means a limited liability partnership—

(i) the contribution of which, does not exceed twenty-five lakh rupees or such higher amount, not exceeding five crore rupees, as may be prescribed; and

(ii) the turnover of which, as per the Statement of Accounts and Solvency for the immediately preceding financial year, does not exceed forty lakh rupees or such higher amount, not exceeding fifty crore rupees, as may be prescribed; or

(iii) which meets such other requirements as may be prescribed,

and fulfils such terms and conditions as may be prescribed;’;

(h) in clause (u), for the words, figures and letters “sub-section (I) of section 10FB”, the word and figures “section 408” shall be substituted.

Amendment
of section 7.

4. In section 7 of the principal Act,—

(a) in sub-section (I), in the *Explanation*, for the words “eighty-two days during the immediately preceding one year”, the words “twenty days during the financial year” shall be substituted;

(b) in sub-section (6), for the words, figures and letters “sections 266A to 266G”, the words and figures “sections 153 to 159” shall be substituted.

Amendment
of section 10.

5. In section 10 of the principal Act,—

(a) in the marginal heading, the figure “8” shall be omitted;

(b) in sub-section (1), for the words “punishable with fine which shall not be less than ten thousand rupees, but which may extend to five lakh rupees”, the following shall be substituted, namely:—

“liable to a penalty of ten thousand rupees and in case of continuing contravention, with a further penalty of one hundred rupees for each day after the first during which such contravention continues, subject to a maximum of one lakh rupees for the limited liability partnership and fifty thousand rupees for every partner of such limited liability partnership.”;

(c) for sub-section (2), the following sub-sections shall be substituted, namely:—

“(2) If the limited liability partnership contravenes the provision of sub-section (4) of section 7, such limited liability partnership and its every designated partner shall be liable to a penalty of five thousand rupees and in case of continuing contravention, with a further penalty of one hundred rupees for each day after the first during which such contravention continues, subject to a maximum of fifty thousand rupees for the limited liability partnership and twenty-five thousand rupees for its every designated partner.

(3) If the limited liability partnership contravenes the provisions of sub-section (5) of section 7 or section 9, such limited liability partnership and its every partner shall be liable to a penalty of ten thousand rupees, and in case of continuing contravention, with a further penalty of one hundred rupees for each day after the first during which such contravention continues, subject to a maximum of one lakh rupees for the limited liability partnership and fifty thousand rupees for its every partner.”.

6. In section 13 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—

Amendment
of section 13.

“(4) If any default is made in complying with the requirements of this section, the limited liability partnership and its every partner shall be liable to a penalty of five hundred rupees for each day during which the default continues, subject to a maximum of fifty thousand rupees for the limited liability partnership and its every partner.”.

7. In section 15 of the principal Act, in sub-section (2), for clause (b), the following shall be substituted, namely:—

Amendment
of section 15.

“(b) identical or too nearly resembles to that of any other limited liability partnership or a company or a registered trade mark of any other person under the Trade Marks Act, 1999.”.

47 of 1999.

8. For section 17 of the principal Act, the following section shall be substituted, namely:—

Substitution of
new section for
section 17.

“17. (1) Notwithstanding anything contained in sections 15 and 16, if through inadvertence or otherwise, a limited liability partnership, on its first registration or on its registration by a new name, is registered by a name which is identical with or too nearly resembles to—

Rectification
of name of
limited
liability
partnership.

(a) that of any other limited liability partnership or a company; or

(b) a registered trade mark of such proprietor under the Trade Marks Act, 1999,

47 of 1999.

as is likely to be mistaken for it, then on an application of such limited liability partnership or proprietor referred to in clauses (a) and (b) respectively or a company, the Central Government may direct that such limited liability partnership to change its name or new name within a period of three months from the date of issue of such direction:

Provided that an application of the proprietor of the registered trade marks shall be maintainable within a period of three years from the date of incorporation or registration or change of name of the limited liability partnership under this Act.

(2) Where a limited liability partnership changes its name or obtains a new name under sub-section (1), it shall within a period of fifteen days from the date of such change, give notice of the change to Registrar along with the order of the Central Government, who shall carry out necessary changes in the certificate of incorporation and within thirty days of such change in the certificate of incorporation, such limited liability partnership shall change its name in the limited liability partnership agreement.

(3) If the limited liability partnership is in default in complying with any direction given under sub-section (1), the Central Government shall allot a new name to the limited liability partnership in such manner as may be prescribed and the Registrar shall enter the new name in the register of limited liability partnerships in place of the old name and issue a fresh certificate of incorporation with new name, which the limited liability partnership shall use thereafter:

Provided that nothing contained in this sub-section shall prevent a limited liability partnership from subsequently changing its name in accordance with the provisions of section 16.”.

Omission of section 18.

9. Section 18 of the principal Act shall be omitted.

Amendment of section 21.

10. In section 21 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) If the limited liability partnership contravenes the provisions of this section, the limited liability partnership shall be liable to a penalty of ten thousand rupees.”.

Amendment of section 25.

11. In section 25 of the principal Act, for sub-sections (4) and (5), the following sub-sections shall be substituted, namely:—

“(4) If the limited liability partnership contravenes the provisions of sub-section (2), the limited liability partnership and its every designated partner shall be liable to a penalty of ten thousand rupees.

(5) If the contravention referred to in sub-section (1) is made by any partner of the limited liability partnership, such partner shall be liable to a penalty of ten thousand rupees.”.

Amendment of section 30.

12. In section 30 of the principal Act, in sub-section (2), for the words “two years”, the words “five years” shall be substituted.

Amendment of section 34.

13. In section 34 of the principal Act, for sub-section (5), the following sub-sections shall be substituted, namely:—

“(5) Any limited liability partnership which fails to comply with the provisions of sub-section (3), such limited liability partnership and its designated partners shall be liable to a penalty of one hundred rupees for each day during which such failure continues, subject to a maximum of one lakh rupees for the limited liability partnership and fifty thousand rupees for every designated partner.

(6) Any limited liability partnership which fails to comply with the provisions of sub-section (1), sub-section (2) and sub-section (4), such limited liability partnership shall be punishable with fine which shall not be less than twenty-five thousand rupees, but may extend to five lakh rupees and every designated partner of such limited liability partnership shall be punishable with fine which shall not be less than ten thousand rupees, but may extend to one lakh rupees.”.

14. After section 34 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 34A.

18 of 2013.

“34A. The Central Government may, in consultation with the National Financial Reporting Authority constituted under section 132 of the Companies Act, 2013,—

Accounting and auditing standards.

(a) prescribe the standards of accounting; and

(b) prescribe the standards of auditing,

38 of 1949.

as recommended by the Institute of Chartered Accountants of India constituted under section 3 of the Chartered Accountants Act, 1949, for a class or classes of limited liability partnerships.”.

15. In section 35 of the principal Act, for sub-sections (2) and (3), the following sub-section shall be substituted, namely:—

Amendment of section 35.

“(2) If any limited liability partnership fails to file its annual return under sub-section (1) before the expiry of the period specified therein, such limited liability partnership and its designated partners shall be liable to a penalty of one hundred rupees for each day during which such failure continues, subject to a maximum of one lakh rupees for the limited liability partnership and fifty thousand rupees for designated partners.”.

16. For section 39 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 39.

2 of 1974.

“39. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Regional Director or any other officer not below the rank of Regional Director authorised by the Central Government may compound any offence under this Act which is punishable with fine only, by collecting from a person reasonably suspected of having committed the offence, a sum which may extend to the amount of the maximum fine provided for the offence but shall not be lower than the minimum amount provided for the offence.

Compounding of offences.

(2) Nothing contained in sub-section (1) shall apply to an offence committed by a limited liability partnership or its partner or its designated partner within a period of three years from the date on which similar offence committed by it or him was compounded under this section.

Explanation.—For the removal of doubts, it is hereby clarified that any second or subsequent offence committed after the expiry of the period of three years from the date on which the offence was previously compounded, shall be deemed to be the first offence.

(3) Every application for the compounding of an offence shall be made to the Registrar who shall forward the same, together with his comments thereon, to the Regional Director or any other officer not below the rank of Regional Director authorised by the Central Government, as the case may be.

(4) Where any offence is compounded under this section, whether before or after the institution of any prosecution, intimation thereof shall be given to the Registrar within a period of seven days from the date on which the offence is so compounded.

(5) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence.

(6) Where the compounding of any offence is made after the institution of any prosecution, such compounding shall be brought by the Registrar in writing, to the notice of the court in which prosecution is pending and on such notice of the compounding of the offence being given, the offender in relation to which the offence is so compounded shall be discharged.

(7) The Regional Director or any other officer not below the rank of Regional Director authorised by the Central Government, while dealing with the proposal for compounding of an offence may, by an order, direct any partner, designated partner or other employee of the limited liability partnership to file or register, or on payment of fee or additional fee as required to be paid under this Act, such return, account or other document within such time as may be specified in the order.

(8) Notwithstanding anything contained in this section, if any partner or designated partner or other employee of the limited liability partnership who fails to comply with any order made by the Regional Director or any other officer not below the rank of Regional Director authorised by the Central Government, under sub-section (7), the maximum amount of fine for the offence, which was under consideration of Regional Director or such authorised officer for compounding under this section shall be twice the amount provided in the corresponding section in which punishment for such offence is provided.”.

Amendment
of section 60.

17. In section 60 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) If default is made in complying with the provisions of sub-section (3), the limited liability partnership and its every designated partner shall be liable to a penalty of ten thousand rupees, and in case of continuing default, with a further penalty of one hundred rupees for each day after the first during which such default continues, subject to a maximum of one lakh rupees for limited liability partnership and fifty thousand rupees for every designated partner.”.

Amendment
of section 62.

18. In section 62 of the principal Act, for sub-section (4) and *Explanation* occurring after sub-section (4), the following sub-section and *Explanation* shall be substituted, namely:—

“(4) If default is made in complying with the provisions of sub-section (3), the limited liability partnership and its every designated partner shall be liable to a penalty of ten thousand rupees, and in case of the continuing default, with a further penalty of one hundred rupees for each day, after the first during which such default continues, subject to a maximum of one lakh rupees for limited liability partnership and fifty thousand rupees for every designated partner.

Explanation.—For the purposes of this section,—

(i) “property” includes property, rights and powers of every description and “liabilities” includes duties of every description;

(ii) a “limited liability partnership” shall not be amalgamated with a company.”.

Insertion of
new sections
67A, 67B and
67C.

19. After section 67 of the principal Act, the following sections shall be inserted, namely:—

Establishment
of Special
Courts.

“67A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary for such area or areas, as may be specified in the notification.

(2) The Special Court shall consist of—

(a) a single Judge holding office as Sessions Judge or Additional Sessions Judge, in case of offences punishable under this Act with imprisonment of three years or more; and

(b) a Metropolitan Magistrate or a Judicial Magistrate of the first class, in the case of other offences,

who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court:

18 of 2013. Provided that until Special Courts are designated or established under sub-section (1), the Courts designated as Special Courts in terms of section 435 of the Companies Act, 2013 shall be deemed to be Special Courts for the purpose of trial of offences punishable under this Act:

2 of 1974. 18 of 2013. Provided further that notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established under this Act or the Companies Act, 2013, be tried by a Court of Sessions or the Court of Metropolitan Magistrate or a Judicial Magistrate of the first class, as the case may be, exercising jurisdiction over the area.

2 of 1974. 67B. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences specified under sub-section (1) of section 67A shall be triable only by the Special Court established or designated for the area in which the registered office of the limited liability partnership is situated in relation to which the offence is committed or where there are more than one Special Courts for such area, by such one of them as may be specified in this behalf by the High Court concerned. Procedure and powers of Special Court.

2 of 1974. (2) While trying an offence under this Act, a Special Court may also try an offence other than an offence under this Act with which the accused may, under the Code of Criminal Procedure, 1973 be charged at the same trial.

2 of 1974. (3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Special Court may, if it thinks fit, try in a summary way any offence under this Act which is punishable with imprisonment for a term not exceeding three years:

Provided that in the case of any conviction in a summary trial, no sentence of imprisonment for a term exceeding one year shall be passed:

Provided further that, when at the commencement of or in the course of a summary trial, it appears to the Special Court that the nature of the case is such that the sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Special Court shall, after hearing the parties, record an order to that effect and thereafter recall any witnesses who may have been examined and proceed to hear or re-hear the case in accordance with the procedure for the regular trial.

2 of 1974. 67C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Sessions trying cases within the local limits of the jurisdiction of the High Court.”. Appeal and revision.

20. After section 68 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 68A.

“68A. (1) For the purpose of exercising such powers and discharging such functions as are conferred on the Central Government by or under this Act or under rules made thereunder and for the purpose of registration of limited liability partnerships under this Act, the Central Government shall, by notification, establish such number of registration offices at such places as it thinks fit, specifying their jurisdiction. Registration offices.

(2) The Central Government may appoint such Registrars, Additional Registrars, Joint Registrars, Deputy Registrars and Assistant Registrars as it considers necessary, for the registration of limited liability partnerships and discharge of various functions under this Act.

(3) The powers and duties of the Registrars referred to in sub-section (2) and the terms and conditions of their service shall be such as may be prescribed.

(4) The Central Government may direct the Registrar to prepare a seal or seals for the authentication of documents required for, or connected with the registration of limited liability partnerships.”.

Substitution of
new section
for section 69.

21. For section 69 of the principal Act, the following section shall be substituted, namely:—

Payment of
additional fee.

“69. Any document or return required to be registered or filed under this Act with Registrar, if, is not registered or filed in time provided therein, may be registered or filed after that time, on payment of such additional fee as may be prescribed in addition to any fee as is payable for filing of such document or return:

Provided that such document or return shall be filed after the due date of filing, without prejudice to any other action or liability under this Act:

Provided further that a different fee or additional fee may be prescribed for different classes of limited liability partnerships or for different documents or returns required to be filed under this Act or rules made thereunder.”.

Amendment
of section 72.

22. In section 72 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

“(2) Any person aggrieved by an order of Tribunal may prefer an appeal to the Appellate Tribunal:

Provided that no appeal shall lie to the Appellate Tribunal from an order made by the Tribunal with the consent of parties.

(3) Every appeal preferred under sub-section (2) shall be filed within a period of sixty days from the date on which the copy of the order of the Tribunal is made available to the person aggrieved and shall be in such form, and accompanied by such fees, as may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of sixty days, but within a further period of not exceeding sixty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the period so specified.

(4) On the receipt of an appeal under sub-section (2), the Appellate Tribunal shall, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Appellate Tribunal shall send a copy of every order made by it to the Tribunal and the parties to the appeal.”.

Omission of
section 73.

23. Section 73 of the principal Act shall be omitted.

Substitution of
new section
for section 74.

24. For section 74 of the principal Act, the following section shall be substituted, namely:—

General
penalties.

“74. If a limited liability partnership or any partner or any designated partner or any other person contravenes any of the provisions of this Act or the rules made thereunder, or any condition, limitation or restriction subject to which any approval, sanction, consent, confirmation, recognition, direction or exemption in relation to any matter has been accorded, given or granted, and for which no penalty or punishment is provided elsewhere in this Act, the limited liability partnership or any partner or any designated partner or any other person, who is in the default, shall be liable to a

penalty of five thousand rupees and in case of a continuing contravention with a further penalty of one hundred rupees for each day after the first during which such contravention continues, subject to a maximum of one lakh rupees.”.

25. After section 76 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
76A.

“76A. (1) For the purposes of adjudging penalties under this Act, the Central Government may, by an order published in the Official Gazette, appoint as many officers of the Central Government, not below the rank of Registrar, as adjudicating officers in such manner as may be prescribed.

Adjudication
of penalties.

(2) The Central Government shall, while appointing adjudicating officers, specify their jurisdiction in the order under sub-section (1).

(3) The adjudicating officer may, by an order—

(a) impose the penalty on the limited liability partnership or its partners or designated partners or any other person, as the case may be, stating therein any non-compliance or default under the relevant provisions of this Act:

Provided that in case default relates to non-compliance of sub-section (3) of section 34 or sub-section (1) of section 35 and such default has been rectified either prior to or within thirty days of the issue of the notice by the adjudicating officer, no penalty shall be imposed in this regard and proceedings under this section in respect of such default shall be deemed to be concluded:

Provided further that notwithstanding anything contained in this Act, if penalty is payable for non-compliance of any of the provisions of this Act by a small limited liability partnership or a start-up limited liability partnership or by its partner or designated partner or any other person in respect of such limited liability partnership, then such limited liability partnership or its partner or designated partner or any other person, shall be liable to a penalty which shall be one-half of the penalty specified in such provisions subject to a maximum of one lakh rupees for limited liability partnership and fifty thousand rupees for every partner or designated partner or any other person, as the case may be.

Explanation.—For the purposes of this proviso, the expression “start-up limited liability partnership” means a limited liability partnership incorporated under this Act and recognised as such in accordance with the notifications issued by the Central Government from time to time.

(b) direct such limited liability partnership or its partner or designated partner or any other person, as the case may be, to rectify the default, wherever he considers fit for reasons to be recorded in writing.

(4) The adjudicating officer shall, before imposing any penalty, give an opportunity of being heard to such limited liability partnership or its partner or designated partner or any other person, who is in default.

(5) Any person aggrieved by an order made by the adjudicating officer under sub-section (3) may prefer an appeal to the Regional Director having jurisdiction in the matter.

(6) Every appeal made under sub-section (5) shall be filed within a period of sixty days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person and shall be in such form, manner and accompanied by such fees as may be prescribed:

Provided that the Regional Director may, for the reasons to be recorded in writing, extend the period of filing an appeal, under this sub-section, by not more than thirty days.

(7) The Regional Director may, after giving an opportunity of being heard to the parties to the appeal, pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against.

(8) Where a limited liability partnership fails to comply with the order made under sub-section (3) or sub-section (7), as the case may be, within a period of ninety days from the date of receipt of the copy of the order, such limited liability partnership shall be punishable with fine which shall not be less than twenty-five thousand rupees, but may extend to five lakh rupees.

(9) Where a partner or designated partner of a limited liability partnership or any other person who is in default fails to comply with an order made under sub-section (3) or sub-section (7), as the case may be, within a period of ninety days from the date of receipt of the copy of the order, such partner or designated partner or any other person shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than twenty-five thousand rupees but may extend to one lakh rupees, or with both.”.

Substitution of
new sections
for section 77.

26. For section 77 of the principal Act, the following sections shall be substituted, namely:—

Jurisdiction of
Courts.

“77. Subject to the provisions contained in section 67A and section 67B, on and from the date of establishment or designation of Special Courts under this Act,—

(i) the Special Court referred to in clause (a) of sub-section (2) of section 67A shall have jurisdiction and power to impose punishment under section 30 of the Act; and

(ii) the criminal cases against the limited liability partnership or its partners or designated partners or any other person in default filed under this Act and pending before the court of Judicial Magistrate of the first class or Metropolitan Magistrate, as the case may be, shall be transferred to the Special Court referred to in clause (b) of sub-section (2) of section 67A.

Cognizance of
offences.

77A. No court, other than the Special Courts referred to in section 67A, shall take cognizance of any offence punishable under this Act or the rules made thereunder save on a complaint in writing made by the Registrar or by any officer not below the rank of Registrar duly authorised by the Central Government for this purpose.”.

Amendment
of section 79.

27. In section 79 of the principal Act, in sub-section (2),—

(i) for clause (a), the following clauses shall be substituted, namely:—

“(a) the contribution of such higher amount under sub-clauses (i) and (ii) of clause (ta) of section 2;

(aa) the terms and conditions to be fulfilled by class or classes of limited liability partnerships under long line to clause (ta) of section 2;

(ab) the form and manner of prior consent to be given by designated partner under sub-section (3) of section 7;”;

(ii) after clause (k), the following clause shall be inserted, namely:—

“(ka) the manner of allotting a new name to the limited liability partnership under sub-section (3) of section 17;”;

(iii) after clause (p), the following clauses shall be inserted, namely:—

“(pa) the issue of debentures to such other persons subject to such terms and conditions under sub-section (1) of section 33A;

(pb) the form and manner of keeping and maintaining a register of debenture holders under sub-section (3) of section 33A;

(*pc*) the manner to create a debenture redemption reserve account under sub-section (4) of section 33A;

(*pd*) the information, documents and return of allotments to be filed with the Registrar under sub-section (7) of section 33A;”;

(*iv*) after clause (*t*), the following clause shall be inserted, namely:—

“(ta) the standards of accounting and auditing under section 34A;”;

(*v*) after clause (*zf*), the following clauses shall be inserted, namely:—

“(zfa) the powers and duties to be discharged by the Registrars and the terms and conditions of their service under sub-section (3) of section 68A;

(zfb) the payment of additional fee for filing of document or return and the payment of different fee or additional fee under section 69;

(zfc) the form and fee for filing of appeal under sub-section (3) of section 72;”;

(*vi*) after clause (*zg*), the following clauses shall be inserted, namely:—

“(zga) the manner of appointing adjudicating officers for adjudging penalty under sub-section (1) of section 76A;

(zgb) the form, manner and fee for filing an appeal against the order made by the adjudicating officer under sub-section (6) of section 76A;”;

(*vii*) in clause (*zl*), the word “and” occurring at the end shall be omitted;

(*viii*) after clause (*zm*), the following clause shall be inserted, namely:—

“(zn) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.”.

28. In section 80 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

Amendment
of section 80.

“(1A) Notwithstanding anything contained in sub-section (1), if any difficulty arises in giving effect to the provisions of this Act as amended by the Limited Liability Partnership (Amendment) Act, 2021, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of three years from the date of commencement of the Limited Liability Partnership (Amendment) Act, 2021.”.

29. Section 81 of the principal Act shall be omitted.

Omission of
section 81.

STATEMENT OF OBJECTS AND REASONS

The Limited Liability Partnership Act, 2008 (the Act) was enacted with a view to make provisions for the formation and regulation of limited liability partnerships and for matters connected therewith or incidental thereto.

2. The main purpose of the Act was to provide a new body corporate form that would provide an alternative to the traditional partnership form to enable professional expertise and entrepreneurial initiative to be combined, organised and operated in a flexible, innovative and efficient manner.

3. In view of the constant endeavour of the Central Government to facilitate greater ease of living to law abiding corporates and to decriminalise certain provisions of the Act, it has become necessary to amend certain provisions of the Act. Hence the Bill, namely, the Limited Liability Partnership (Amendment) Bill, 2021 is proposed to be enacted.

4. The Limited Liability Partnership (Amendment) Bill, 2021, *inter alia*, provides for the following, namely:—

(i) to introduce the concept of “small limited liability partnership” in line with the concept of “small company” under the Companies Act, 2013;

(ii) to amend certain sections of the Act so as to convert offences into civil defaults and to convert the nature of punishment provided in the said sections from fines to monetary penalties;

(iii) to insert a new section 34A so as to empower the Central Government to prescribe the “Accounting Standards” or “Auditing Standards” for a class or classes of limited liability partnerships;

(iv) to amend section 39 of the Act relating to “compounding of offences” so as to authorise the Regional Director to compound any offence under this Act which is punishable with fine only;

(v) to insert a new section 67A empowering the Central Government to establish or designate as many “Special Courts” as may be necessary for the purpose of providing speedy trial of offences under the Act;

(vi) to amend section 72 of the Act so as to provide more clarity in the provisions when any person aggrieved by an order of “Tribunal” prefers an appeal to the “Appellate Tribunal”;

(vii) to insert a new section 76A so as to provide that the Central Government may appoint as many officers as Adjudicating Officers as it thinks necessary for the purpose of adjudicating penalties under the Act.

5. The Notes on clauses explains in detail the various provisions of the Bill.

6. The Bill seeks to achieve the above objectives.

NIRMALA SITHARAMAN.

NOTES ON CLAUSES

Clause 1 of the Bill seeks to provide for short title and commencement of the proposed legislation.

Clause 2 of the Bill seeks to provide that throughout the Limited Liability Partnership Act, 2008, the reference to the words and figures "the Companies Act, 1956", wherever they occur, shall be substituted by the words and figures "the Companies Act, 2013".

Clause 3 of the Bill seeks to amend clauses (c), (d), (e), (s) and (u) of sub-section (1) of section 2 of the Act and insert new definitions for terms "Regional Director" and "small limited liability partnership" as clauses (ra), (ta) respectively.

Clause 4 of the Bill seeks to amend Explanation to sub-section (1) of section 7 of the Act to reduce the duration of stay in India for "resident in India" from one hundred and eighty-two days to one hundred and twenty days and to substitute in sub-section (6) of section 7 the reference to the sections of the "Companies Act, 1956" with reference to the sections of the "Companies Act, 2013".

Clause 5 seeks to amend section 10 to provide monetary penalty for the contraventions of the provisions of section 7 and section 9 of the Act.

Clause 6 of the Bill seeks to amend sub-section (4) of section 13 of the Act to provide for monetary penalty if any default is made in compliance of the requirement under such section.

Clause 7 of the Bill seeks to amend sub-section (2) of section 15 of the Act to omit the words "partnership firm", "body corporate" and "a trade mark which is subject of an application for registration".

Clause 8 of the Bill seeks to substitute section 17 of the Act, *inter alia*, to provide for compulsory allotment of a new name to a limited liability partnership by the Central Government, in case of default in complying with the directions of the Central Government, instead of imposing punishment for non-compliance of such default.

Clause 9 of the Bill seeks to omit section 18 of the Act relating to application for direction to change name in certain circumstances.

Clause 10 of the Bill seeks to amend sub-section (2) of section 21 to provide monetary penalty for contravention of the provisions of the section.

Clause 11 of the Bill seeks to amend sub-sections (4) and (5) of section 25 of the Act to provide monetary penalty for contravention of respective provisions of such section.

Clause 12 of the Bill seeks to amend sub-section (2) of section 30 of the Act to enhance the imprisonment from two years to five years for the offence referred to in such section.

Clause 13 of the Bill seeks to amend sub-section (5) of section 34 of the Act to provide for monetary penalty for failure to comply with the provisions of sub-section (3).

Clause 14 of the Bill seeks to insert a new section 34A in the Act to enable the Central Government to prescribe the Standards of Accounting and Auditing for certain class or classes of limited liability partnerships.

Clause 15 of the Bill seeks to substitute sub-section (2) and (3) of section 35 of the Act to provide for a monetary penalty for failure to file Annual Return under sub-section (1) before the expiry of the period specified therein.

Clause 16 of the Bill seeks to substitute section 39 of the Act to empower the Regional Director or any other Officer not below the rank of Regional Director authorised by Central Government to compound any offence under this Act which is punishable with fine only and also to provide for procedures for such compounding of offences.

Clause 17 of the Bill seeks to amend sub-section (4) of section 60 of the Act to provide for monetary penalty in case a default is made in complying with the provisions of sub-section (3) of section 60.

Clause 18 of the Bill seeks to amend sub-section (4) of section 62 of the Act to provide for monetary penalty for a default made in complying with the provisions of sub-section (3) of such section and to insert an Explanation to the effect that a "Limited Liability Partnership" shall not be amalgamated with a Company.

Clause 19 of the Bill seeks to insert new sections 67A, 67B, and 67C in the Act for establishing or designating Special Courts to provide for procedures and powers of Special Courts and for appeal and revision by the High Court.

Clause 20 of the Bill seeks to insert a new section 68A for establishment of Registration Offices at such places as the Central Government thinks fit by specifying their jurisdiction for the purpose of registration of limited liability partnerships under the Act and to also provide for the appointment of Registrars.

Clause 21 of the Bill seeks to amend section 69 of the Act to provide for levying of quantum of fee or additional fee by Rules for filing of documents and returns or delayed filing of such documents and returns.

Clause 22 of the Bill seeks to substitute sub-section (2) of section 72 of the Act to provide a provision for an appeal against the Order of Tribunal before the Appellate Tribunal and related provisions.

Clause 23 of the Bill seeks to omit section 73 of the Act relating to penalty on non-compliance of any order passed by Tribunal.

Clause 24 of the Bill seeks to substitute section 74 of the Act to provide for monetary penalty for contraventions of any provisions of the Act or rules made thereunder for which no punishment is provided elsewhere in the Act.

Clause 25 of the Bill seeks to insert section 76A in the Act to make provisions for adjudication of penalties, appointment of Adjudicating officers, appeal against the order of Adjudicating Officers and also to provide principles and procedures for such adjudications and appeal.

Clause 26 of the Bill seeks to substitute section 77 of the Act by sections 77 and 77A. Section 77 as substituted seeks to provide jurisdiction to Special Courts and also provides that pending cases before the court of Judicial Magistrate of first class or Metropolitan Magistrate as the case may be under the Act shall be transferred to the Special Courts. Section 77A seeks to provide that no court other than the Special Court shall take cognizance of offence under the Act save on a complaint by the Registrar or authorized officer.

Clause 27 of the Bill seeks to amend sub-section (2) of section 79 of the Act to provide for power to make rules in addition to the existing matters as specified therein.

Clause 28 of the Bill seeks to amend section 80 of the Act by inserting a new sub-section (1A) in the Act to provide for power to the Central Government to remove by an Order the difficulty, if any, which arises in giving effect to the provisions of the Act as amended by the Limited Liability Partnership (Amendment) Act, 2021.

Clause 29 of the Bill seeks to omit section 81 of the Act relating to transitional provisions.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 79 of the Limited Liability Partnership Act, 2008 empowers the Central Government to make rules for carrying out the provisions of the Act. It is proposed to amend certain clauses in sub-section (2) of said section, *inter alia*, are— (a) the contribution of such higher amount under sub-clauses (i) and (ii) of clause (ta) of section 2; (b) the terms and conditions to be fulfilled by class or classes of limited liability partnerships under long line to clause (ta) of section 2; (c) the manner of allotting a new name to the limited liability partnership under sub-section (3) of section 17; (d) the standards of accounting or auditing under section 34A; (e) the powers and duties to be discharged by the Registrars and the terms and conditions of their service under sub-section (3) of section 68A; (f) the payment of additional fee for filing of document or return and the payment of different fee or additional fee under section 69; (g) the form and fee for filing of appeal under sub-section (3) of section 72; (h) the manner of appointing adjudicating officers for adjudging penalty under sub-section (1) of section 76A; (i) the form, manner and fee for filing an appeal against the order made by the adjudicating officer under sub-section (6) of section 76A; and (j) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.

2. The matters in respect of which rules may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

II

BILL NO. XXVIII OF 2021

A Bill further to amend the Deposit Insurance and Credit Guarantee Corporation Act, 1961.

BE it enacted by Parliament in the Seventy-second Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Deposit Insurance and Credit Guarantee Corporation (Amendment) Act, 2021.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

47 of 1961.

2. In section 2 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (hereinafter referred to as the principal Act),—

Amendment of section 2.

(i) in clause (f),—

(a) in sub-clause (viii), for the words "competent Court", the words "competent Court; or" shall be substituted;

(b) after sub-clause (viii), the following sub-clause shall be inserted, namely:—

"(ix) in respect of which any direction, prohibition, order or scheme referred to in sub-section (I) of section 18A is issued or made;"

(ii) in clause (ff),—

(a) in sub-clause (viii), for the words "in a State.", the words "in a State; or" shall be substituted;

(b) after sub-clause (viii), the following sub-clause shall be inserted, namely:—

"(ix) in respect of which any direction, prohibition, order or scheme referred to in sub-section (I) of section 18A is issued or made;"

3. In section 15 of the principal Act, in sub-section (I), in second proviso, for the words "Provided further that", the following words shall be substituted, namely:—

Amendment of section 15.

"Provided further that the Corporation may, having regard to its financial position and to the interests of the banking system of the country as a whole, and with previous approval of the Reserve Bank of India, from time to time, raise the aforesaid limit of fifteen paise per annum for every hundred rupees of the total amount of the deposits in that bank:

Provided also that".

4. After section 18 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 18A.

"18A. (I) Where, in respect of an insured bank,—

(i) any direction is issued or any prohibition or order or scheme is made under any of the provisions of the Banking Regulation Act, 1949; and

(ii) such direction, prohibition, order or scheme provides for restrictions on depositors of such bank from accessing their deposits,

Liability of Corporation to make interim payment to depositors of insured bank.

then, without prejudice to the provisions of sections 16 to 18, the Corporation shall, on the date on which such direction, prohibition, order or scheme takes effect, become liable to pay to every such depositor an amount equivalent to the amount payable by the Corporation to the depositor under section 16.

(2) A list showing the outstanding deposits of each depositor of the insured bank, as on the date on which the direction, prohibition, order or scheme referred to in sub-section (I) takes effect, shall be furnished by such insured bank within forty-five days of such date of effect, in such form and manner as may be specified by the Corporation and certified to be correct by the chief executive officer of the insured bank.

(3) The Corporation shall, within thirty days of the date of receipt of the list under sub-section (2), verify, through an online platform, to the extent possible, or in accordance with such procedure, as may be prescribed, the genuineness and authenticity of the claims made therein, and ascertain the willingness of each depositor to receive the amount due to him out of his deposit in the insured bank.

10 of 1949.

(4) Subject to the provisions of sub-section (7), the Corporation shall, before the expiry of fifteen days from the date of completion of the verification under sub-section (3), pay to the depositors who have affirmed their willingness thereunder, the amount payable under sub-section (1) either directly, or get it credited in the account of the depositors through the insured bank:

Provided that the total period of time between the date when the Corporation becomes liable to pay to the depositor and the date of payment to the depositor shall not, subject to the provisions of sub-section (7), exceed ninety days:

Provided further that any amount paid by the insured bank to the depositor during the period between the date on which the direction, prohibition, order or scheme referred to in sub-section (1) takes effect and the date of payment to the depositor, shall be appropriately reckoned by the insured bank before crediting such amount in depositor's account.

(5) Any amount paid by the Corporation under sub-section (4) in respect of a deposit shall, to the extent of the amount so paid, discharge the insured bank from its liability to the depositor in respect of that deposit, but the insured bank shall become liable to the Corporation in respect of the amount paid by the Corporation.

(6) Where, in respect of an insured bank,—

(i) any direction, prohibition, order or scheme under any of the provisions of the Banking Regulation Act, 1949 providing for suspension of business of the insured bank is already in force as on the date of commencement of the Deposit Insurance and Credit Guarantee Corporation (Amendment) Act, 2021; and

10 of 1949.

(ii) such direction, prohibition, order or scheme provides for restrictions on the amounts to be paid by the insured bank to each of its depositors,

then, notwithstanding anything contained in any other law for the time being in force, the Corporation shall, on and from the date of commencement of the Deposit Insurance and Credit Guarantee Corporation (Amendment) Act, 2021, become liable to pay to each depositor of such insured bank, an amount equivalent to the amount payable by the Corporation to the depositor under sub-section (1) of section 16, and the time limit specified in sub-sections (2) to (4) herein for such payment shall be computed from that date.

(7) Notwithstanding anything contained in sub-sections (1) to (6), in cases where,—

(a) the Reserve Bank finds it expedient in the interest of finalising a scheme of amalgamation of the insured bank with other banking institution or a scheme of compromise or arrangement or of reconstruction in respect of such insured bank, and communicates to the Corporation accordingly, the date on which the Corporation shall become liable to pay every depositor of such insured bank may further be extended by a period not exceeding ninety days;

(b) the restrictions on payment to depositors are removed by the Reserve Bank at any time before payment to depositors by the Corporation under sub-section (4), and the insured bank or the transferee bank is in a position to make payments to its depositors on demand without any restrictions, the Corporation shall not be liable to make payment to the depositors of such insured bank.

Amendment
of section 19.

5. In section 19 of the principal Act, after the word and figures "section 18", the words, figures and letter "or section 18A" shall be inserted.

Amendment
of section 20.

6. In section 20 of the principal Act, after the word and figures "section 18", the words, figures and letter "or section 18A" shall be inserted.

7. In section 21 of the principal Act,—

Amendment
of section 21.

(i) in sub-section (1), after the word and figures "section 18", the words, figures and letter "or section 18A" shall be inserted;

(ii) in sub-section (2), in clause (b), after the words and figures "the scheme referred to in section 18", the words, figures and letter "or the direction, prohibition, order or scheme referred to in section 18A" shall be inserted;

(iii) after sub-section (2), the following sub-sections shall be inserted, namely:—

"(3) The Corporation may defer or vary the time limit for receipt of repayments due to it from the insured bank or the transferee bank, as the case may be, for such period and upon such terms, as may be decided by the Board in accordance with the regulations made in this behalf:

Provided that such regulations shall also provide for prudential principles to assess the capability of the bank to make repayment to the Corporation and for prohibition of specified other classes of liabilities from being discharged by the insured bank or the transferee bank till such time as repayment is made to the Corporation.

(4) In case of any delay in repayment to the Corporation beyond the time period prescribed under sub-section (2) or extended under sub-section (3), the Corporation may charge penal interest at a maximum rate of two per cent. above the repo rate per annum for the amount to be repaid to the Corporation and such penal interest shall rank equally for priority with the amount to be repaid under sub-section (2).".

STATEMENT OF OBJECTS AND REASONS

The Deposit Insurance and Credit Guarantee Corporation Act, 1961 was enacted to provide for the establishment of a corporation for the purpose of insurance of deposits and guaranteeing of credit facilities and for other matters connected therewith or incidental thereto.

2. The Deposit Insurance and Credit Guarantee Corporation (hereinafter referred to as the Corporation) insures all bank deposits, including savings, fixed, current and recurring deposits of all banks in India. Pursuant to the announcement in the Budget Speech of 2020, the Corporation was permitted to increase deposit insurance coverage for a depositor from rupees one lakh to rupees five lakhs per depositor per bank, to provide a greater measure of protection to depositors in banks.

3. The Banking Regulation Act, 1949 was amended *vide* the Banking Regulation (Amendment) Act, 2020 (39 of 2020) to further strengthen proper regulation and supervision of all banks by the Reserve Bank of India. Though the Reserve Bank of India and the Central Government keep monitoring the health of all banks, yet, there have been numerous recent cases of banks, especially cooperative banks, being unable to fulfil their obligations towards their depositors because of imposition of moratorium by the Reserve Bank of India. The cause of continuing concern is that when various restrictions, including moratorium, are imposed on a bank by the Reserve Bank of India, genuine depositors continue to face serious difficulties in accessing their deposits, despite deposit insurance being in place, and this may continue for extended periods of time.

4. Therefore, there is a need to amend the Deposit Insurance and Credit Guarantee Corporation Act, 1961 to enable easy and time-bound access by depositors to their own money, even when there are restrictions on banks. It is proposed to provide that even if a bank is temporarily unable to fulfil its obligations due to restrictions such as moratorium imposed on it, depositors can access their deposits to the extent of deposit insurance cover through interim payments by the Corporation.

5. The Deposit Insurance and Credit Guarantee Corporation (Amendment) Bill, 2021 *inter alia* seeks to provide for—

(a) amendment of section 15 to enable the Corporation to raise the ceiling on the amount of premium with previous approval of the Reserve Bank of India;

(b) insertion of a new section 18A to enable interim payment to be made by the Corporation to depositors in those banks for whom any direction or prohibition or order or scheme under any of the provisions of the Banking Regulation Act, 1949 has been issued, imposing restrictions on depositors in the banks from accessing their deposits;

(c) amendment of section 21 by inserting new sub-sections (3) and (4) therein, to provide that the Corporation may defer or vary the receipt of repayments due to it from the insured bank and to empower the Corporation to charge penal interest in case of delay in repayment by the banks to the Corporation.

6. The Bill seeks to achieve the above objects.

NIRMALA SITHARAMAN.

FINANCIAL MEMORANDUM

The provisions of the Bill do not involve any expenditure of recurring or non-recurring nature from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill seeks to insert a new sub-section (3) in section 21 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 so as to empower the Board to make regulations in respect of matters relating to—(i) the period for which and the terms upon which the time limit for receipt of repayment due to Corporation may be deferred or varied; and (ii) the prudential principles to assess the capability of an insured bank to make repayment to the Corporation and for prohibition of specified other classes of liabilities from being discharged by the insured bank or the transferee bank till such time as repayment is made to the Corporation.

The matters in respect of which regulations may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

DESH DEEPAK VERMA,
Secretary-General.